

Federal District Court for Delaware

John Green, Jr.
Plaintiff
v.

Case No. 04-920-KAJ

Cape Henlopen School District, et al
Defendants

**Motion to Strike the Record from Below and
Partial Summary Judgment**

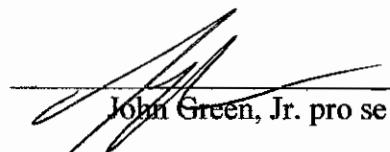
On August 3, 2004 Plaintiff filed an appeal from the Due Process Hearing conducted by a panel appointed by the Delaware Department of Education. At that time the Plaintiff notified the Panel Chair and advised him of the appeal. It was his obligation to assemble and forward the record to this Honorable Court at that time. It would appear he failed to do so. On February 27, 2006 Plaintiff received a box marked 2 of 2 from LouAnn Vari, Education Associate, Delaware Department of Education. This box contained what was represented as Tab 15 to 17 of the record "certified" on February 13, 2006. Plaintiff still has not received tabs 1-14 or the indicated certification. It would appear the record was not sent for over 18 months. Plaintiff would suggest this is not a timely certifying and forwarding of the record.

There is also an incurable appearance of impropriety in that the record is being forwarded and, it would appear, assembled and held for over 18 months by the attorney who represented at the hearing below the Defendant, the Delaware Department of Education, LouAnn Vari. The record appears to have been in the hands of the Defendant and joint venture partner of the Sussex Elementary School Consortium for over 18 months.

The record has been tainted beyond use. To order a rehearing at this point is inappropriate because of the passing of time.

Plaintiff therefore asks this honorable court to declare the record compromised and Order equitable relief in the form of a sum equal to the cost of 4 years compensatory education at Glenhome. The school where placement was being sought and such other relief and adjusting of scope as the Court should deem appropriate.

March 1, 2006


John Green, Jr. pro se

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FILED
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U.S. DISTRICT COURT DISTRICT OF DELAWARE

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CERTIFICATE OF SERVICE

I, John Green, hereby certify that on this 1st day of March 2006, two copies of the within Motion to strike the record from below and partial summary judgment were served by United States first class mail postage prepaid, on the following parties counsel of record at the addresses indicated below:

David H. Williams Esq.
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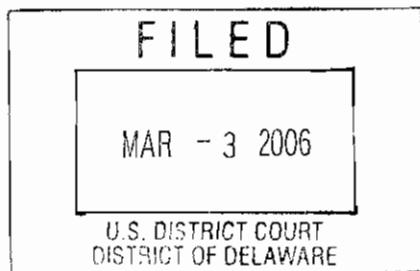
Craig Raymond Fitzgerald, Esq.
Department of Justice
102 West Water Street
Dover, DE 19901

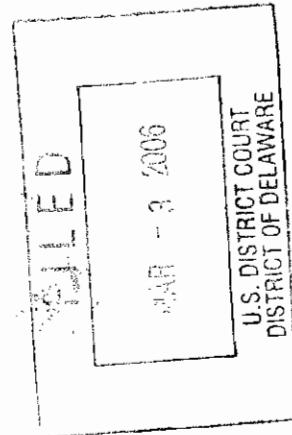
Mary L. Cook, Esq.
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March 1, 2006



John Green Jr.





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